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No. 560

## AMENDING SECTIONS 353 AND 354 OF THE IMMIGRATION AND NATIONALITY ACT

JULY 22, 1959.—Ordered to be printed

MR. EASTLAND, from the Committee on the Judiciary, submitted the following

### R E P O R T

[To accompany H.R. 3088]

The Committee on the Judiciary, to which was referred the bill (H.R. 3088) to amend sections 353 and 354 of the Immigration and Nationality Act, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

#### PURPOSE OF THE BILL

The purpose of the bill is to amend certain provisions of sections 353 and 354 of the Immigration and Nationality Act (8 U.S.C. 1485 and 1486), which specify the exemptions from the provisions of the act relating to the loss of U.S. citizenship by naturalized citizens.

#### STATEMENT

Under existing law (sec. 352 of the Immigration and Nationality Act, 8 U.S.C. 1484), automatic loss of U.S. citizenship occurs in the case of a naturalized citizen who establishes residence abroad—

- (1) For 3 years in a foreign state of which he was formerly a national or in which the place of his birth is situated; or
- (2) For 5 years in any other foreign state or states.

There are several exemptions from this general rule, such as residence abroad for the purpose of maintaining certain specified type of employment or for the purpose of pursuing a full course of study or for other reasons specified in sections 353 and 354 of the Immigration and Nationality Act (8 U.S.C. 1485 and 1486).

One of the exemptions from both the 3- and 5-year rule specified in paragraph (7) of section 353 of the act applies to the spouse or child of an American citizen who is accompanying such citizen for the purpose of remaining with him while he has his residence abroad for reasons specified in the law. Section 1 of the instant bill will add to the exempted class the parent of a U.S. citizen residing abroad for such specified reasons.

Among persons exempted from the automatic loss of citizenship pursuant to the 5-year rule are veterans of the Spanish-American War, World War I, and World War II (and their spouses, children, and dependent parents). The American Legion has for several years advocated the inclusion among the exempted class of the honorably discharged veterans who served during the Korean conflict. A resolution petitioning Congress to provide for such change in the law was passed by the national convention of the American Legion in 1957 and readopted by the national executive committee of the American Legion on April 29, 1959. Section 2 of this bill is designed to achieve this purpose, by revising section 354(1) of the act.

Naturalized citizens of the United States, regardless of their age, who have had continuous residence in the United States for 25 years subsequent to their naturalization, are exempted from loss of citizenship under the 5-year rule of section 352(a)(2). No such exemption is provided if residence is established in the country of their birth or former nationality under the 3-year rule, unless they have attained 60 years of age when such foreign residence is established (sec. 353(3) of the Immigration and Nationality Act, 8 U.S.C. 1485).

It is felt that the steadily increasing activities of American citizens abroad justify the reduction of the 25-year residence requirement to 15 in the case of naturalized citizens subject to the 5-year rule.

Similarly, it is felt that naturalized U.S. citizens who entered the United States in their early youth, prior to their sixth birthday, and thus spent their formative years in this country, should have all of their residence in the United States, prior to attaining 21 years of age, counted within that residential requirement which would exempt them from loss of U.S. citizenship. Section 3 of this bill provides for such an amendment of existing law, but limits its applicability to naturalized citizens who do not reside in the country of their birth or former nationality.

The Departments of State and Justice have expressed their approval of the legislation.

A letter dated April 23, 1959, to the chairman of the Committee on the Judiciary of the House of Representatives from the Assistant Secretary of State with reference to the bill, reads as follows:

DEPARTMENT OF STATE,  
Washington, April 23, 1959.

Re H.R. 3088.

HON. EMANUEL CELLER,  
*Chairman, Committee on Judiciary,*  
*House of Representatives.*

DEAR MR. CELLER: I refer to your letter of February 9, 1959, to the Secretary, and to my reply of February 11, 1959, relating to H.R. 3088, to amend sections 353 and 354 of the Immigration and Nationality Act.

Section 1 of the bill would amend section 353(7) of the Immigration and Nationality Act by providing that a dependent parent residing abroad with his American citizen son or daughter would be exempt from the provisions of section 352(a) to the same degree and under the same circumstances as the spouse or child of an American citizen is now exempt under paragraph (7).

This amendment would be of assistance in a case where the dependent parent, a naturalized citizen, is residing abroad as a member of the American family but whose own activities are limited so as to preclude his case from consideration under an exemption to the automatic operation of section 352. The Department has in the past been obliged to hold loss of citizenship on a number of such cases.

Section 2 of the bill would amend section 354(1) of the Immigration and Nationality Act by including within its provisions those who are veterans of the Korean conflict. The words "or World War II" occur but once in section 354(1), but the words "of World War II" occur at the end of the proviso. The Department suggests that the proposed amendment be added also to the proviso.

Since the term "veteran" is defined in section 101(d)(1), the committee may wish to amend that definition to conform to the proposed amendment to section 354(1). Section 101(d)(2), which defines the terms "Spanish-American War," "World War I," and "World War II" should probably be amended to include a definition of "the Korean hostilities." If this is done, the wording of the proposed amendment to section 354(1) could be shortened. Amendment of section 354(1) to include veterans of the Korean hostilities would place such veterans on an even footing with veterans of other armed conflicts.

Section 3 of the bill would amend section 354(5) of the Immigration and Nationality Act by decreasing from 25 years to 15 years the requirements for residence in the United States after naturalization. It would also introduce a new concept to nationality law, namely, of equating residence during minority with residence after naturalization. This provision would enable the Department to document a number of citizens whose cases are similar to some which in recent years have been the beneficiaries of private laws.

The Department considers that enactment of H.R. 3088 would make possible the preservation of U.S. citizenship in a considerable number of cases involving naturalized citizens residing abroad, and would obviate the necessity for enactment of private bills for such persons.

The Department has been informed by the Bureau of the Budget that there is no objection to the submission of this report.

Sincerely yours,

WILLIAM B. MACOMBER, Jr.,  
*Assistant Secretary*  
(For the Secretary of State).

A letter dated April 23, 1959, to the chairman of the Committee on the Judiciary of the House of Representatives from the Deputy Attorney General with reference to the bill, reads as follows:

DEPARTMENT OF JUSTICE,  
OFFICE OF THE DEPUTY ATTORNEY GENERAL,  
Washington, D.C., April 23, 1959.

Hon. EMANUEL CELLER,  
*Chairman, Committee on the Judiciary,  
House of Representatives, Washington, D.C.*

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice concerning the bill (H.R. 3088) to amend sections 353 and 354 of the Immigration and Nationality Act.

Existing law, paragraph (7) of section 353 of the Immigration and Nationality Act, provides exemption from expatriation by reason of residence abroad of a naturalized citizen who is the spouse or child of an American citizen and who has his residence abroad for the purpose of being with that American citizen spouse or child who in turn has his residence abroad for certain specified objects or causes. The bill would amend existing law to accord this exemption from expatriation to a parent of an American citizen. It also would provide that the person accorded the exemption not only be residing abroad for the purpose of being with his American citizen relative but that he is dependent upon such American citizen relative "for support or otherwise."

The Department of Justice favors extension of the exemption from expatriation to a parent but doubts that the restriction relative to dependency "for support or otherwise" should be added. Furthermore, this language would present serious problems of interpretation. It is the view of the Department that the main objective sought could better be accomplished by an amendment of paragraph (7) of section 353 of the Immigration and Nationality Act reading as follows:

"(7) is the spouse or child of, or has a son or daughter who is, an American citizen, and who has his residence abroad for the purpose of being with his American citizen spouse, parent, or son or daughter who has his residence abroad for one of the objects or considerations specified in paragraph (1), (2), (3), (4), (5), or (6) of this section, or paragraph (2) of section 354 of this title; or".

It is recommended that the above language be substituted for that proposed in section 1 of the bill.

Existing law, paragraph (1) of section 354 of the Immigration and Nationality Act, provides exemption from expatriation by reason of residence abroad of a naturalized citizen who is a veteran of the Spanish-American War, World War I, or World War II, and the spouse, child, and dependent parents of such veteran. Section 2 of the bill would extend this exemption to veterans of the Korean conflict. The Department of Justice favors this amendment.

Existing law, paragraph (5) of section 354 of the Immigration and Nationality Act, grants an exemption from expatriation resulting from 5 years' continuous residence in any foreign country (sec. 352(a)(2)) to a naturalized citizen who has had his residence in the United States for at least 25 years subsequent to his naturalization and prior to the establishment of his foreign residence. The bill



would reduce the necessary period of U.S. residence from 25 to 15 years. In addition, it would give the same exemption to a naturalized citizen who was lawfully admitted to the United States for permanent residence before the age of 6 years and had his residence in the United States for 15 years thereafter. The Department of Justice has no objection to this proposed amendment.

If amended as suggested herein, the Department of Justice would have no objection to the enactment of the bill.

The Bureau of the Budget has advised that there is no objection to the submission of this report.

Sincerely yours,

LAWRENCE E. WALSH,  
*Deputy Attorney General.*

The committee, after consideration of all the facts, is of the opinion that the bill (H.R. 3088) should be enacted.

#### CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, while existing law in which no change is proposed is shown in roman):

#### SECTION 354(7) OF THE IMMIGRATION AND NATIONALITY ACT

(7) is the spouse or child of, *or has a son or daughter who is*, an American citizen, and who has his residence abroad for the purpose of being with his American citizen spouse, [or] parent, *or son or daughter*, who has his residence abroad for one of the objects or [causes] *considerations* specified in paragraph (1), (2), (3), (4), (5), or (6) of this section, or paragraph (2) of section 354 of this title; or.

#### SECTION 354(1) OF THE IMMIGRATION AND NATIONALITY ACT

(1) who is a veteran of the Spanish-American War, World War I, or World War II, *or of the Korean hostilities (having served honorably in an active duty status in the military, air, or naval forces of the United States during a period beginning June 25, 1950 and ending July 1, 1955)*, and the spouse, children, and dependent parents of such veteran whether such residence in the territory of a foreign state or states commenced before or after the effective date of this Act: *Provided*, That any such veteran who upon the date of the enactment of this Act has had his residence continuously in the territory of a foreign state of which he was formerly a national or in which the place of his birth is situated for three years or more, and who has retained his United States nationality solely by reason of the provisions of section 406(h) of the Nationality Act of 1940, shall not be subject to the provisions or requirements of section 352(a)(1) of this title: *Provided further*, That the provisions of section 404(c) of the Nationality Act of 1940, as amended, shall not be held to be or to have been applicable to veterans of World War II;.

## SECTION 354(5) OF THE IMMIGRATION AND NATIONALITY ACT

(5) who shall have his residence in the United States for not less than ~~twenty-five~~ fifteen years subsequent to his naturalization and prior to the establishment of his foreign residence [.] ; or who prior to attaining the age of twenty-one years, shall have had his residence in the United States for not less than fifteen years subsequent to his lawful admission for permanent residence.

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